

Before the
UNITED STATES COPYRIGHT BOARD
LIBRARY OF CONGRESS
Washington, D.C.

In the Matter of:

DETERMINATION OF RATES
AND TERMS FOR MAKING AND
DISTRIBUTING PHONORECORDS
(Phonorecords IV)

Docket No. 21–CRB–0001–PR (2023–2027)

**NOTICE OF ERRATA IN COPYRIGHT OWNERS’
PROPOSED RATES AND TERMS AND APPENDICES THERETO**

National Music Publishers’ Association and the Nashville Songwriters Association International (together, “Copyright Owners”) hereby notify the Copyright Royalty Judges of the following errata contained in their Proposed Rates and Terms and Appendices thereto from Volume I of their Written Direct Statement filed in the above-captioned proceeding, and respectfully submit the following corrections to be made thereto:¹

- In Volume I, Proposed Rates and Terms, the following corrections should be made:
 - The heading “ROYALTY RATES FOR PHYSICAL PHONORECORDS, PERMANENT DIGITAL DOWNLOADS AND RINGTONES” in the Table of Contents and at page 1 should be corrected to “ROYALTY RATES FOR PHYSICAL PHONORECORDS, PERMANENT DOWNLOADS AND RINGTONES”.

¹ The Restricted version of the Copyright Owners’ Written Direct Statement was filed on October 13, 2021. The Public version was filed on October 20, 2021. Copyright Owners will separately provide additional copies of Volume I of the statement reflecting the errata corrections identified herein. The Public version also inadvertently omitted the Proposed Rates and Terms document to which the Appendices were attached, which will also be included.

- The text “The Rate Proposal retain a defined term for Bundled Subscription Offering, but revise it as follows” at page 10 should be corrected to “The Rate Proposal retains a defined term for Bundled Subscription Offering, but revises it as follows”.
- Numbering in the text at pages 17-18 should be corrected as follows: from “(i) all Revenue” to “(1) all Revenue”; from “(a) In instances” to “(i) In instances”; from “(b) For any monies” to “(ii) For any monies”; from “(ii) all Revenue arising” to “(2) all Revenue arising”; and from “(iii) any other Revenue” to “(3) any other Revenue”. The same corrections should also be made in Appendix A to Proposed Rates and Terms in the definition of Service Provider Revenue in § 385.2 (with conforming edits to the Appendix B redline).
- Numbering in the text at page 19 should be corrected as follows: from “Subscription revenue in clause (i)” to “Subscription revenue in clause (1)”; from “Advertising revenue in clause (ii)” to “Advertising revenue in clause (2)”; from “other revenue in clause (iii)” to “other revenue in clause (3)”; from “Subsection (i) incorporates” to “Subsection (1) incorporates”; and from “Subsection (ii) addresses” to “Subsection (2) addresses”.
- The text “(outside the context of Purchased Content Locker Service)” at page 24 should be corrected to “(outside the context of Purchased Content Locker Services)”.

- The text “TCC (or Total Sound Recording Cost of Content)” at page 25 should be corrected to “TCC (or Total Cost of Sound Recording Content)”.
- The text “Total Sound Recording Cost of Content or TCC” at page 25 should be corrected to “TCC (or Total Cost of Sound Recording Content)”.
- The text “each End User is individual person” at page 26 should be corrected to “each End User is an individual person”.
- In Appendix A to the Proposed Rates and Terms, the following corrections should be made (with conforming edits to the Appendix B redline):
 - The numbering of the first footnote should be corrected from “29” to “1”.
 - The text “Permanent Downloads, or Restricted Downloads at no incremental charge above the otherwise applicable purchase price of the digital Downloads, or physical phonorecords” in the definition of Purchased Content Locker Service in § 385.2 should be corrected to “Permanent Downloads, Restricted Downloads or Ringtones at no incremental charge above the otherwise applicable purchase price of the Permanent Downloads, Ringtones or physical phonorecords”.
 - The references to “Permanent Digital Downloads” in the definition of Purchased Content Locker Service in § 385.2 should be corrected to just “Permanent Downloads” and the phrase “or Ringtones” added after the final mention of the word “Downloads” in both (2)(i) and (2)(ii).

- The text “TCC (or Total Cost of Sound Recording Content) TCC means” in the definition of TCC in § 385.2 should be corrected to “TCC (or Total Cost of Sound Recording Content) means”.
- The text “any payment owed the mechanical licensing collective” in § 385.3 should be corrected to “any payment owed to the mechanical licensing collective”.
- The text “Recordkeeping for promotional or fraudulent non-royalty-bearing uses” in the title to § 385.4 should be corrected to “Recordkeeping for promotional non-royalty-bearing uses”.
- The text “Eligible Interactive Streaming and Eligible Limited Downloads” in the heading for Subpart C should be corrected to “Eligible Interactive Streams and Eligible Limited Downloads”.
- The text “\$1.30” in § 385.21(b)(3)(ii)(2) and (3) should be corrected to “\$1.50”.
- The text “who were only Subscribers for only part of a calendar month” in § 385.21(b)(3)(ii)(2) should be corrected to “who were Subscribers for only part of a calendar month”.
- The text “Calculate per-work royalty allocations” in § 385.21(b)(4) should be corrected to “Calculate the per-work royalty allocation”.
- The text “shall be divided the total number” in § 385.21(b)(4) should be corrected to “shall be divided by the total number”.
- The text “on the basis the best knowledge” in § 385.21(d) should be corrected to “on the basis of the best knowledge”.

- The text “Restricted Downloads and Purchased Content Locker Services provided by” in § 385.30 should be corrected to “Restricted Downloads, Purchased Content Locker Services and Promotional Use provided by”.
- In the Appendix B redline, in the definition of “Limited Offering” in § 385.2, the paragraph beginning “(23) The ~~particular~~ catalog” should be struck and, in the definition of “Purchased Content Locker Service” in § 385.2, the word “phonorecords” should be struck from the phrase “phonorecords of the applicable sound recordings”.

Dated: October 25, 2021
New York, New York

Respectfully submitted,

PRYOR CASHMAN LLP

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Counsel for Copyright Owners

Proof of Delivery

I hereby certify that on Monday, October 25, 2021, I provided a true and correct copy of the Copyright Owners Notice of Errata in Proposed Rates and Terms to the following:

Zisk, Brian, represented by Brian Zisk, served via ESERVICE at brianzisk@gmail.com

Spotify USA Inc., represented by Joseph Wetzel, served via ESERVICE at joe.wetzel@lw.com

Powell, David, represented by David Powell, served via ESERVICE at davidpowell008@yahoo.com

Apple Inc., represented by Mary C Mazzello, served via ESERVICE at mary.mazzello@kirkland.com

Joint Record Company Participants, represented by Susan Chertkof, served via ESERVICE at susan.chertkof@riaa.com

Johnson, George, represented by George D Johnson, served via ESERVICE at george@georgejohnson.com

Pandora Media, LLC, represented by Benjamin E. Marks, served via ESERVICE at benjamin.marks@weil.com

Amazon.com Services LLC, represented by Joshua D Branson, served via ESERVICE at jbranson@kellogghansen.com

Google LLC, represented by Gary R Greenstein, served via ESERVICE at ggreenstein@wsgr.com

Signed: /s/ Benjamin K Semel